



MORTGAGE

Doc#: 0416118105
Eugene "Gene" Moore Fee: \$38.50
Cook County Recorder of Deeds
Date: 06/09/2004 12:50 PM Pg: 1 of 8

THIS MORTGAGE (the "Mortgage")
is made as of 10 day of Apr. 2004,
by AUSTIN SIMS, having an address at 1802 N.
Rutherford, Chicago, IL 60628, (the "Borrower") to
SOHAIL SHAKIR, with address at
14098 Marilyn Road 1802, Noblesville,
IN 46060 (the "Lender").

Borrower has executed and
delivered to Lender a Promissory Note
(the "Note") of even date herewith
payable to the order of Lender in the
Principal sum of One Hundred and Five Thousand
Dollars (\$105,000), bearing interest and payable
as set forth in the Note, and due on July 1, 2004.

In order to secure the payment of the principal indebtedness under the Note and interest and premiums on the principal indebtedness under the Note (and all replacements, renewals and extensions thereof, in whole or in part) according to its tenor, and to secure the payment of all other sums which may be at any time due under the Note or this Mortgage (collectively sometimes referred to herein as "Indebtedness"); and to secure the performance and observance of all the provisions contained in this Mortgage or the Note, and to charge the properties, interests and rights hereinafter described with such payment, performance and observance, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Borrower DOES HEREBY MORTGAGE AND CONVEY unto Lender, its successors and assigns forever, the following described property, rights and interests (which are referred to herein as the "Premises"), all of which property, rights and interests are hereby pledged primarily and on a parity with the Land (as hereinafter defined) and not secondarily:

THE LAND located in the State of Illinois, County of Cook, City of Chicago (the "Land") and legally described as follows:

LEGAL DESCRIPTION

Lot 5 in Marcia A. Patrick's Subdivision of the North 140.8 Feet of Lot 1 in Circuit Court Partition of the East 1/2 of the Southwest 1/4 of the Northeast 1/4 of Section 15, Township 39 North, Range 13, East of the Third Principal Meridian, In Cook County, Illinois

P.I.N. 16-15-217-007-0000

Commonly Known as: 4241 West Jackson, Chicago, IL 60624

TOGETHER WITH all improvements of every nature whatsoever now or hereafter situated on the Land, and all fixtures and personal property of every nature whatsoever now or hereafter owned by Borrower and located on or used or intended to be used in connection with the Land or the improvements, or in connection with any construction thereon, and owned by Borrower, and all

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of Borrower's rights or payments now or hereafter made on such personal property or fixtures by Borrower or on its behalf (the "Improvements");

TOGETHER WITH all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way now or hereafter belonging, relating or appertaining to the Land, and the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, in and to the same;

TOGETHER WITH all income from the Premises to be applied against the Indebtedness, provided, however, that Borrower may, so long as no Default has occurred hereunder, collect income and other benefits as it becomes due, but not more than one (1) month in advance thereof;

TOGETHER WITH all proceeds of the foregoing, including without limitation all judgments, awards of damages and settlements hereafter made resulting from condemnation proceeds or the taking of the Premises or any portion thereof under the power of eminent domain, any proceeds of any policies of insurance, maintained with respect to the Premises or proceeds of any sale, option or contract to sell the Premises or any portion thereof.

TO HAVE AND TO HOLD the Premises, unto the Lender, its successors and assigns, forever, for the purposes herein set forth together with all right to possession of the Premises after the occurrence of any Default as hereinafter defined; the Borrower hereby **RELEASING AND WAIVING** all rights under and by virtue of the homestead exemption laws of the State of Illinois.

BORROWER COVENANTS that it is lawfully seized of the Land, and that it has lawful authority to mortgage the same, and that it will warrant and defend the Land and the quiet and peaceful possession of the same against the lawful claims of all persons whomsoever.

PROVIDED, NEVERTHELESS, that if Borrower shall pay in full when due the Indebtedness and shall timely perform and observe all of the provisions herein and in the Note provided to be performed and observed by the Borrower, then this Mortgage and the interest of Lender in the Premises shall cease and become void, but shall otherwise remain in full force.

BORROWER FURTHER AGREES AS FOLLOWS:

1. *Payment of Indebtedness and Performance of Covenants.* Borrower shall (a) pay the Indebtedness when due and (b) punctually perform and observe all of the requirements of the Note and this Mortgage.

2. *Maintenance, Repair, Compliance with Law, Use, etc.* Borrower shall (a) promptly repair or restore any portion of the Improvements which may become damaged or be destroyed whether or not proceeds of insurance are available or sufficient for that purpose; (b) keep the Premises in good condition and free from waste; (c) pay all operating costs of the Premises; (d) complete, within a reasonable time, any building or other Improvements at any time in the process of erection upon the Premises; (e) comply with all requirements of law relating to the Premises and the use thereof; (f) refrain from any action and correct any condition which would increase the risk of fire or other hazard to the Improvements; (g) comply with any restrictions of record with respect to the Premises; and comply with any conditions necessary to preserve and extend all rights that are applicable to the Premises.

3. *Liens, Prohibition.* Subject to the provisions of Paragraph 4 hereof, Borrower shall not create or suffer or permit any encumbrance to attach to or be filed against the Premises, excepting only (i) the lien of real estate taxes and assessments not due and (ii) any liens and encumbrances of

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Lender.

4. *Taxes. Payment.* Borrower shall pay when due all taxes, assessments, and charges of every kind levied or assessed against the Premises or any interest therein or any obligation or instrument secured hereby, and all installments thereof (all herein generally called "Taxes"), whether or not assessed against Borrower, and Borrower shall furnish to Lender receipts therefore on or before the date the same are due; and shall discharge any claim or lien relating to Taxes upon the Premises.

5. *Insurance Coverage.* Borrower will insure the Premises against such perils and hazards, and in such amounts and with such limits, as Mortgage may from time to time require.

5.1. Casualty insurance against loss and damage by all risks of physical loss or damage, including fire, windstorm, flood, earthquake and other risks covered by the so-called extended coverage endorsement in amounts not less than the full insurable replacement value of all Improvements, fixtures and equipment from time to time on the Premises and bearing a replacement cost agreed amount endorsement;

5.2. Comprehensive public liability against death, bodily injury and property damage with such limits as Lender may require;

5.3. The types and amounts of coverage as are customarily maintained by owners or operators of like properties.

6. *Insurance Policies.* All Insurance Policies shall be in form, companies and amounts reasonably satisfactory to Lender. All Insurance Policies shall (i) include, when available, non-contributing mortgagee endorsements in favor of and with loss payable to Lender, (ii) include standard waiver of subrogation endorsement, (iii) provide that the coverage shall not be terminated or materially modified without thirty (30) days' advance written notice to Lender and (iv) provide that no claims shall be paid thereunder without ten (10) days' advance written notice to Lender. Borrower will deliver all Insurance Policies premium prepaid, to Lender and will deliver renewal or replacement policies at least thirty (30) days prior to the date of expiration of any policy.

7. *Deposits for Taxes and Insurance Premiums.* Borrower shall pay all Taxes and insurance policy premiums ("Premiums") when due.

8. *Proceeds of Insurance.* Borrower will give Lender prompt notice of any loss or damage to the Premises, and:

8.1. In case of loss covered by insurance policies, Lender (or, after entry of decree of foreclosure, the purchaser at the foreclosure sale or decree creditor, as the case may be) is hereby authorized at its option either (i) to settle and adjust any claim under such policies without the consent of Borrower, or (ii) to allow Borrower to settle or adjust such claims; provided that Borrower may itself adjust losses aggregating not in excess of Ninety Five Thousand Dollars (\$95,000) if such adjustment is carried out in a competent and timely manner. The expenses incurred by Lender in the adjustment and collection of insurance proceeds shall be so much additional Indebtedness and Borrower shall reimburse Lender for such expense upon demand.

8.2. Lender may apply the proceeds of insurance consequent upon any Insured Casualty upon the Indebtedness in such order as Lender may elect; provided, however, that such application of proceeds shall not be considered a voluntary prepayment of the Note which would require the payment of any prepayment premium.

9. *Restrictions on Transfer.* Borrower shall not, without the prior written consent of Lender, effect, suffer or permit any "Prohibited Transfer" (as defined herein). Any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation (or any agreement to do any of the foregoing) of any of the following properties, rights or interests shall

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constitute a "Prohibited Transfer": The Premises or any part thereof or interest therein;

10. *Defaults.* If one or more of the following events (herein called "Defaults") shall occur:

10.1. If Borrower shall, after the expiration of any applicable grace periods, fail to make payments of amounts owed under the Note or this Mortgage when due;

10.2. If any default shall, after the expiration of any applicable grace periods, exist under any other document or instrument regulating, evidencing, securing or guarantying any of the Indebtedness;

10.3. A Prohibited Transfer;

10.4. If default shall continue for fifteen (15) days after notice thereof by Lender to Borrower in the punctual performance or observance of any other agreement or condition herein contained;

10.5. Borrower shall file a voluntary petition in bankruptcy or for relief under the Federal Bankruptcy Act or any similar state or federal law,

10.6. Borrower shall file a pleading in any proceeding admitting insolvency;

10.7. Within sixty (60) days after the filing against Borrower of any involuntary proceeding under the Federal Bankruptcy Act or similar state or federal law, such proceedings shall not have been vacated;

10.8. A substantial part of Borrower's assets are attached, seized, subjected to a writ or distress warrant, or are levied upon, unless such attachment, seizure, writ, warrant or levy is vacated within sixty (60) days;

10.9. Borrower shall make an assignment for the benefit of creditors or shall consent to the appointment of a receiver or trustee or liquidator of all or the major part of its property, or the Premises; or

10.10. Any order appointing a receiver, trustee or liquidator of Borrower or all or a major part of Borrower's property or the Premises is not vacated within ninety (90) days following the entry thereof, then Lender may, at its option and without affecting the lien hereby created or the priority of said lien or any other right of Lender hereunder, to declare, without further notice, all Indebtedness to be immediately due with interest thereon at the Default Rate, whether or not such Default be thereafter remedied by Borrower, and Lender may immediately proceed to foreclose this Mortgage and to exercise any right provided by this Mortgage, the Note or otherwise.

11. *Foreclosure.* When the Indebtedness shall become due, whether by acceleration or otherwise, Lender shall have the right to foreclose the lien hereof in accordance with the Illinois Mortgage Foreclosure Act (the "Act") and to exercise any other remedies of Lender provided in the Note, this Mortgage, the Loan Agreement, or which Lender may have at law, at equity or otherwise. In any suit to foreclose the lien hereof, there shall be allowed and included as additional Indebtedness in the decree of sale, all expenditures and expenses which may be paid or incurred by or on behalf of Lender for attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographer's charges, publication costs, costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurance with respect to title as Lender may deem reasonably necessary either to prosecute such suit or to evidence to bidders at sales which may be had pursuant to such decree the true conditions of the title to or the value of the Premises, and any other expenses and expenditures which may be paid or incurred by or on behalf of Lender and permitted by the Act to be included in such decree. All expenditures and expenses of the nature mentioned in this Paragraph, and such other expenses and fees as may be incurred in the protection of the Premises and rents and income there from and the maintenance of the lien of this

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Mortgage, including the fees of any attorney employed by Lender in any litigation or proceedings affecting this Mortgage, the Note or the Premises, including probate and bankruptcy proceedings, or in preparation of the commencement or defense of any proceedings or threatened suit or proceeding, or otherwise in dealing specifically therewith, shall be so much additional Indebtedness and shall be immediately due and payable by Borrower, with interest thereon at the Default Rate until paid.

12. *Right of Possession.* When the Indebtedness shall become due, whether by acceleration or otherwise, or if Lender has a right to institute foreclosure proceedings, Borrower shall, forthwith upon demand of Lender, surrender to Lender, and Lender shall be entitled to be placed in possession of the Premises as provided in the Act and Lender, in its discretion and pursuant to court order, may reasonably, by its agent or attorneys, enter upon and take and maintain possession of all or any part of the Premises, together with all documents, books, records and accounts of Borrower or the then owner of the Premises relating thereto, and may exclude Borrower, such owner, and any agents and servants thereof wholly there from and may, on behalf of Borrower or such owner, or in its own name as Lender, and under the powers herein granted:

12.1. Hold, manage, and control all or any part of the Premises and conduct the business, if any, thereof, either personally or by its agents, with full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the rents, issues, deposits, profits, and avails of the Premises;

12.2. Cancel or terminate any Lease or sublease of all or any part of the Premises for any cause or on any ground that would entitle Borrower to cancel the same;

12.3. Extend or modify any then existing Leases and make new Leases of all or any part of the Premises, which extensions, modifications, and new Leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the loan evidenced by the Note and the issuance of a deed to a purchaser at a foreclosure sale, it being understood and agreed that any such Leases, and the options or other such provisions to be contained therein, shall be binding upon Borrower, all persons whose interests in the Premises are subject to the lien hereof, and the purchaser at any foreclosure sale, notwithstanding any redemption from sale, reinstatement, discharge of the Indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any such purchaser;

12.4. Make all necessary or proper repairs, decoration renewals, replacements, alterations, additions, betterments, and improvements in connection with the Premises as may seem judicious to Lender, to insure and reinsure the Property and all risks incidental to Lender's possession, operation, and management thereof, and to receive all rents, issues, deposits, profits, and avails there from; and

12.5. The net income, after allowing a reasonable fee for the collection thereof and for the management of the Premises, to the payment of Taxes, Premiums and other charges applicable to the Premises, or in reduction of the Indebtedness Hereby Secured in such order and manner as Lender shall select. Without limiting the generality of the foregoing, Lender shall have all power, authority and duties as provided in the Act. Nothing herein contained shall be construed as constituting Lender a mortgagee in possession in the absence of the actual taking of possession of the Premises.

13. *Foreclosure Sale.* Except to the extent otherwise required by the Act, the proceeds of any foreclosure sale of the Premises shall be distributed and applied in the following order of priority: First, all items which under the terms hereof constitute Indebtedness additional to the principal and interest evidenced by the Note in such order as Lender shall elect with interest thereon

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as herein provided; and Second, all principal and interest remaining unpaid on the Note in such order as Lender shall elect; and lastly any surplus to Borrower and its successors and assigns, as their rights may appear.

14. *Insurance During Foreclosure.* In case of an insured loss after foreclosure proceedings have been instituted, the proceeds of any Insurance Policy, if not applied in rebuilding or restoring the Improvements, shall be used to pay the amount due in accordance with any decree of foreclosure that may be entered in any such proceedings, and the balance shall be paid as the court may direct. The foreclosure decree may provide that the mortgagee's clause attached to each of the casualty Insurance Policies may be cancelled and that the decree creditor may cause a new loss clause to be attached to each of said casualty Insurance Policies making the loss thereunder payable to said decree creditors. The foreclosure decree may further provide that in the case of one or more redemptions under said decree, each successive redemtor may cause the preceding loss clause attached to each casualty Insurance Policy to be cancelled and a new loss payable clause to be attached thereto, making the loss thereunder payable to such redemtor. In the event of foreclosure sale, Lender may, without the consent of Borrower, assign any Insurance Policies to the purchaser at the sale, or take such other steps to protect the interest of such purchaser.

16. *Rights Cumulative.* Each right herein conferred upon Lender is cumulative and in addition to every other right provided by law or in equity, and Lender may exercise each such right in any manner deemed expedient to Lender. Lender's exercise or failure to exercise any right shall not be deemed a waiver of that right or any other right or a waiver of any default. Except as otherwise specifically required herein, Lender is not required to give notice of its exercise of any of its right under this Mortgage.

17. *Successors and Assigns.*

17.1. *Holder of the Note.* This Mortgage and each provision hereof shall be binding upon Borrower and its successors and assigns (including, without limitation, each and every record owner from time to time of the Premises or any other person having an interest therein), and shall inure to the benefit of Lender and its successors and assigns wherever herein Lender is referred to, such reference shall be deemed to include the holder from time to time of the Note; and each such holder of the Note shall have all of the rights afforded hereby and may enforce the provisions hereof, as fully as if Lender had designated such holder of the Note herein by name.

17.2. *Covenants Run with Land; Successor Owners.* All of the covenants of this Mortgage shall run with the Land and be binding on any successor owners of the Land. If the ownership of Premises or any portion thereof becomes vested in a person other than Borrower, Lender may, without notice to Borrower, deal with such person with reference to this Mortgage and the Indebtedness in the same manner as with Borrower without in any way releasing Borrower from its obligations hereunder.

18. *Effect of Extensions and Amendments.* If the payment of the Indebtedness be extended or varied, or if any part of the security or guaranties therefore be released, all persons at any time liable therefore, or interested in the Premises, shall be held to assent to such extension, variation or release, and their liability, and the lien, and all provisions hereof, shall continue in full force and effect; the right of recourse against all such persons being expressly reserved by Lender, notwithstanding any such extension, variation or release. Any person, firm or corporation taking a junior mortgage, or other lien upon the Premises or any part thereof or any interest therein, shall take the said lien subject to the rights of Lender to amend, modify, extend or release the Note, this Mortgage or any other document or instrument evidencing, securing or guarantying the Indebtedness, in each case without obtaining the consent of the holder of such junior lien and

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without the lien of this Mortgage losing its priority over the rights of any such junior lien.

19. *Environmental Matters.* Borrower represents that it is currently in compliance with, and covenants and agrees that, it will manage and operate the Premises and will cause each tenant to occupy its demised portion of the Premises in compliance with, all federal, state and local laws, rules, regulations and ordinances regulating, without limitation, air pollution, soil and water pollution, and the use, generation, storage, handling or disposal of hazardous or toxic substances or other materials (including, without limitation, raw materials, products, supplies or wastes). Borrower further covenants and agrees that it shall not install or permit to be installed in the Premises asbestos or any substance containing asbestos and deemed hazardous by or in violation of federal, state or local laws, rules, regulations or orders respecting such material. Borrower shall remove from the Premises and dispose of any such hazardous or toxic substances or other materials in a manner consistent with and in compliance with applicable laws, rules, regulations and ordinances and shall take any and all other action to remedy, rectify, rehabilitate and correct any violation of any applicable law, rule, regulation or ordinance concerning toxic or hazardous substances or any violation of any agreement entered into between Borrower, Lender and/or any third party with respect to hazardous or toxic materials. Borrower shall send to Lender within five (5) days of receipt thereof, any citation, notice of violation or other notice of potential liability from any governmental or quasi-governmental authority empowered to regulate or oversee any of the foregoing activities. Borrower agrees to indemnify, defend with counsel reasonably acceptable to Lender (at Borrower's sole cost), and hold Lender harmless against any claim, response or other costs, damages, liability or demand (including, without limitation, reasonable attorneys' fees and costs incurred by Lender) arising out of any claimed violation by Borrower of any of the foregoing laws, regulations or ordinances or breach of any of the foregoing covenants or agreements. The foregoing indemnity shall survive repayment of the Indebtedness.

20. *Future Advances.* At all times, regardless of whether any loan proceeds have been disbursed, this Mortgage secures as part of the Indebtedness the payment of all loan commissions, service charges, liquidated damages, attorneys' fees, expenses and advances due to or incurred by Lender in connection with the Indebtedness, all in accordance with the Note and this Mortgage. All such advances are intended by the parties hereto to be a lien on the premises from the time this Mortgage is recorded, as provided in the Act.

21. *Governing Law.* The place of negotiation, execution, and delivery of this Mortgage and the location of the Property being the State of Illinois, this Mortgage shall be construed and enforced according to the laws of that State, without reference to the conflicts of law principles of that State.

22. *Time of the Essence.* Time is of the essence of the Note, this Mortgage, and any other document or instrument evidencing or securing the Indebtedness.

23. *Captions and Pronouns.* The captions and headings of the various sections of this Mortgage are for convenience only, and are not to be construed as limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular, and the masculine, feminine and neuter shall be freely interchangeable.


24. *Notices.* Any notice or other communication which any party hereto may desire or may be required to give to any other party hereto shall be in writing, and shall be deemed given when (i) personally delivered, (ii) upon receipt if sent by a nationally recognized overnight courier addressed to a party at its address set forth above, or (iii) on the second business day after being deposited in United States registered or certified mail, postage prepaid, addressed to a party at its address set

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forth above, or to such other address as the party to receive such notice may have designated to the other party by notice in accordance herewith.

Except as otherwise specifically required herein, notice of the exercise of any right, power or option granted to Lender by this Mortgage is not required to be given.

AGREED:



AUSTIN L. SIMS

STATE OF ILLINOIS)
COUNTY OF COOK)

I HEREBY CERTIFY that on this 30 day of April, 2004, before me a Notary Public for the state and county aforesaid, personally appeared AUSTIN L. SIMS known to me or satisfactorily proven to be the same person whose name is subscribed to the foregoing instrument, who acknowledged that he duly authorized to execute, and have executed, such instrument on his behalf for the purposes therein set forth, and that the same is his act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal the day and year first above written.



NOTARY PUBLIC

**PREPARED BY AND AFTER
RECORDING RETURN TO:**

Shefik Idrizi
2 N. LaSalle Street
Suite 1802
Chicago, Il 60602

